

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

WILLIAM RANDALL MCKINNEY,)	
)	
Plaintiff,)	
)	
v.)	Case No. CIV- 13 - 337 - HE
)	
CITY OF OKLAHOMA CITY, CITY OF)	Oklahoma County Case No.
OKLAHOMA CITY POLICE DEPARTMENT,)	CJ-2013-1638
PHIL WILLIAMS, JEREMY ANGLIN, PAUL)	
CAMACHO, CHRISTOPHER GULIKERS.)	JURY TRIAL DEMANDED
)	
Defendants.)	

NOTICE AND PETITION FOR REMOVAL

COMES NOW a Defendant, the City of Oklahoma City, by and through its counsel, Richard C. Smith and Jennifer M. Warren, and petitions this Court for removal of this case to the United States District Court for the Western District of Oklahoma, from the District Court of Oklahoma County, where it was filed as Case Number CJ-2013-1638, pursuant to 28 U.S.C. § 1441(a) and Rule 81.2 of the Local Rules of the United States District Court for the Western District of Oklahoma. In support of this Petition, Defendant City states the following:

A. Introduction

1. Plaintiff is William Randall McKinney and he is represented by Kristen L. Hartman and Don Jackson.

2. Plaintiff has brought this lawsuit against these Defendants. He originally filed a Petition in the District Court of Oklahoma County on March 15, 2013. A copy of the Petition is attached as Exhibit 1.

3. On March 19, 2013, Plaintiff served the City of Oklahoma City with a summons and a copy of the Petition filed in Oklahoma County. A copy of the summons is attached as Exhibit 2.

4. On March 19, 2013, Plaintiff attempted to serve the Oklahoma City Police Department by serving a summons and a copy of the Petition to the City Clerk. A copy of the summons is attached as Exhibit 3.

5. Plaintiff served Defendants Phil Williams, Jeremy Anglin, Paul Camacho, and Christopher Gulikers. Copies of their summonses are attached as Exhibit 4.

6. Plaintiff alleges that officers of the OCPD used excessive force during his arrest on March 19, 2011 in violation of his Eighth Amendment rights. He further alleges that he brought this action pursuant to 42 O.S. § 1983, however, because there is no section 1983 of title 42 of the Oklahoma Statutes, Defendant City assumes Plaintiff meant to bring this action pursuant to 42 U.S.C. § 1983. Plaintiff also asserts claims for assault, battery, failure to train/supervise/control, negligence, intentional infliction of emotional distress, and abuse of discretion.

B. Basis for Removal

5. Removal is proper under 28 U.S.C. § 1441(a) because the Petition indicates that the action is brought for damages against Defendants and relief is sought pursuant to 42 U.S.C. § 1983 for the alleged violation of Plaintiff's civil rights under color of state law.

Therefore, the Petition presents constitutional claims over which this Court has original jurisdiction under 28 U.S.C. §§ 1331 and 1343.

6. The Defendant files this notice of removal within the 30-day time period required by 28 U.S.C. §1446(b) after it was served with the summons and the Petition. All defendants agree to this removal.

7. Pursuant to 28 U.S.C. § 1446(a) and L.Cv.R. 81.2, a certified copy of the Docket Sheet from the District Court of Oklahoma County on Case No. CJ-2013-1638 is attached hereto as Exhibit 5. At this time the undersigned counsel for Defendant has inquired of the Clerk of the District Court of Oklahoma County, and there are presently no motions filed or pending in state court at the time of the removal.

Respectfully submitted,

KENNETH JORDAN
Municipal Counselor

By: /s/ Jennifer M. Warren
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Jennifer M. Warren, OBA #30284
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Attorneys for Defendant City

CERTIFICATE OF FILING IN
THE DISTRICT COURT OF OKLAHOMA COUNTY

This is to certify that on the 8th day of April, 2013, a true and correct copy of the above and foregoing Notice and Petition for Removal was hand-delivered to the Clerk of the Court of the District Court of Oklahoma County.

/s/ Jennifer M. Warren
Assistant Municipal Counselor

CERTIFICATE OF MAILING

I hereby certify that on the 8th day of April, 2013, I electronically transmitted the attached Notice and Petition for Removal to the Clerk of Court using the ECF System for filing and mailed a copy via U.S. mail to: Kristen L. Hartman and Don Jackson, 217 N. Harvey, Suite 105, Oklahoma City, OK 73102.

/s/ Jennifer M. Warren
Assistant Municipal Counselor